

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JOCELYN CIPRANA TAUCK,
STEPHAN TAUCK, AGNES TAUCK-LEWIS,
and CHARISMA TAUCK-LEWIS, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ANDREA TAUCK-LEWIS,

Respondent-Appellant,

and

CHARLES BURNS, DANIEL PIFER, and
BRYAN LEWIS,

Respondents.

UNPUBLISHED

August 19, 2008

No. 282597

Wayne Circuit Court

Family Division

LC No. 01-395233-NA

Before: Schuette, P.J., Zahra and Owens, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court's initial order of disposition exercising its jurisdiction over the minor children and placing them with petitioner for care and supervision. We affirm.

Respondent-appellant's sole argument on appeal is that the trial court lacked sufficient evidence to exercise its jurisdiction over the children. We review "the trial court's decision to exercise jurisdiction for clear error in light of the court's findings of fact." *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). "To properly exercise jurisdiction, the trial court must find that a statutory basis for jurisdiction exists." *Id.* "Jurisdiction must be established by a preponderance of the evidence." *Id.*

After reviewing the testimony during the trial on the adjudication, we find no clear error in the trial court's decision to exercise its jurisdiction over the children under MCL 712A.2(b)(1) and (2). The testimony revealed that respondent-appellant left her young children, some of whom had special medical needs, without proper supervision or custody, there was past domestic

violence in their home, she assaulted two of the children on one occasion, and she was unable to provide independent housing for them. Considering these circumstances, we agree with the trial court that a preponderance of the evidence established that respondent-appellant failed to provide proper custody for the children and that her home was unfit by reason of neglect. MCL 712A.2(b)(1) and (2).

We recognize that respondent-appellant's testimony, in many respects, contradicted the testimony of the investigating caseworker as well as her son's statements, which were admitted into evidence as tender years testimony in accordance with MCR 3.972 (C)(2). However, we must give regard to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). It was evident that the court found the child's statements and the investigating worker's testimony to be credible, which was reasonable in light of the contradicting testimony as well as testimony by the investigating worker, who was trained in forensic interviewing, that the child knew the difference between the truth and a lie, was factual, and was not evasive. We, therefore, conclude that the trial court did not clearly err in exercising jurisdiction over the children.

Affirmed.

/s/ Bill Schuette
/s/ Brian K. Zahra
/s/ Donald S. Owens